

STATE OF MICHIGAN
COURT OF APPEALS

MARK STALLMAN,

Plaintiff-Appellant,

v

DIXIE LEWIS HOUCHIN,

Defendant-Appellee.

UNPUBLISHED

January 29, 2008

No. 276138

Grand Traverse Circuit Court

LC No. 06-025522-NI

Before: Bandstra, P.J., and Donofrio and Servitto, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court's order granting defendant's motion for summary disposition in this no-fault case. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's vehicle crossed the center line and collided head-on with plaintiff's vehicle. Plaintiff sustained permanently disabling injuries as a result of the accident, and filed suit seeking non-economic damages.

Defendant moved for summary disposition pursuant to MCR 2.116(C)(8) and (10), arguing that because plaintiff did not maintain no-fault insurance coverage on his vehicle as required by MCL 500.3101(1), he was precluded by statute from collecting non-economic damages. MCL 500.3135(2)(c). Plaintiff contended that MCL 500.3135(2)(c) violated his right to equal protection, and thus was unconstitutional. US Const, Am XIV; Const 1963, art 1, § 2.

The trial court, relying on *Stevenson v Reese*, 239 Mich App 513; 609 NW2d 195 (2000), granted defendant's motion for summary disposition.

We review a trial court's decision on a motion for summary disposition de novo. *Auto Club Group Ins Co v Burchell*, 249 Mich App 468, 479; 642 NW2d 406 (2001). The constitutionality of a statute presents a question of law that we also review de novo. *Michigan State Employees Ass'n v Liquor Control Comm No 2*, 232 Mich App 456, 462; 591 NW2d 353 (1998).

The equal protection clauses of the United States and Michigan Constitutions, US Const, Am XIV; Const 1963, art 1, § 2, require that persons in similar circumstances be treated alike. *El Souri v Dep't of Social Services*, 429 Mich 203, 207; 414 NW2d 679 (1987). Michigan's no-

fault act, MCL 500.3101 *et seq.*, is socioeconomic legislation. We use the rational basis test to review an equal protection challenge to such legislation. *Stevenson, supra* at 517. Under that test, a legislative classification is constitutional if it is rationally related to a legitimate governmental interest. *Shavers v Attorney Gen*, 402 Mich 554, 613; 267 NW2d 72 (1978).

Plaintiff argues that the trial court erred by granting defendant's motion for summary disposition, and continues to assert that MCL 500.3135(2)(c) is unconstitutional because it violates his right to equal protection. We disagree.

In *Stevenson, supra*, this Court determined that MCL 500.3135(2)(c) does not violate equal protection, and thus is constitutional. The *Stevenson* Court held that because uninsured motorists are entitled to seek damages under certain provisions of the no-fault act, MCL 500.3135(2)(c) did not completely abolish the right of such motorists to seek recovery. Moreover, the *Stevenson* Court held that the bar to recovery in MCL 500.3135(2)(c) was rationally related to the state's legitimate interest in maintaining a fair, efficient, and affordable system of automobile insurance. *Stevenson, supra* at 518-520.

Furthermore, plaintiff's assertion that the placement of an uninsured driver in a classification different from that in which is placed a passenger, a pedestrian, or a bicycle rider lacks a rational basis is without merit. A passenger, a pedestrian, and a bicycle rider are not operating an owned motor vehicle, and thus the statute, quite reasonably, does not require them to maintain no-fault insurance coverage.

Plaintiff's argument regarding the constitutionality of MCL 500.3135(2)(c) has been squarely rejected in *Stevenson, supra*. That decision constitutes binding precedent. MCR 7.215(C)(2).¹

We affirm.

/s/ Richard A. Bandstra
/s/ Pat M. Donofrio
/s/ Deborah A. Servitto

¹ Plaintiff does not attempt to distinguish *Stevenson, supra*, and does not suggest that this Court declare a conflict with *Stevenson, supra*, pursuant to MCR 7.215(J).